

Article 83.

Forest Development Act.

**§ 106-1010. Title.**

This Article shall be known as the "Forest Development Act." (1977, c. 562, s. 1; 2011-145, s. 13.25(gg).)

**§ 106-1011. Statement of purpose.**

(a) The General Assembly finds that:

- (1) It is in the public interest of the State to encourage the development of the State's forest resources and the protection and improvement of the forest environment.
- (2) Unfavorable environmental impacts, particularly the rapid loss of forest land to urban development, are occurring as a result of population growth. It is in the State's interest that corrective action be developed now to offset forest land losses in the future.
- (3) Regeneration of potentially productive forest land is a high-priority problem requiring prompt attention and action. Private forest land will become more important to meet the needs of the State's population.
- (4) Growing demands on forests and related land resources cannot be met by intensive management of public and industrial forest lands alone.

(b) The purpose of this Article is to direct the Commissioner of Agriculture to implement a forest development program to:

- (1) Provide financial assistance to eligible landowners to increase the productivity of the privately owned forests of the State through the application of forest renewal practices and other practices that improve tree growth and overall forest health.
- (2) Insure that forest operations in the State are conducted in a manner designed to protect the soil, air, and water resources, including but not limited to streams, lakes and estuaries through actions of landowners on lands for which assistance is sought under provisions in this Article.
- (3) Implement a program of voluntary landowner participation through the use of a forest development fund to meet the above goals.

(c) It is the intent of the General Assembly that in implementing the program under this Article, the Commissioner will cause it to be coordinated with other related programs in such a manner as to encourage the utilization of private agencies, firms and individuals furnishing services and materials needed in the application of practices included in the forest development program. (1977, c. 562, s. 2; c. 771, s. 4; 1989, c. 727, s. 218(73); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1997-443, s. 11A.119(a); 2005-126, s. 1; 2011-145, s. 13.25(gg), (hh).)

**§ 106-1012. Definitions.**

As used in this Article:

- (1) "Approved forest management plan" means the forest management plan submitted by the eligible landowner and approved by the Commissioner. Such plan shall include forest management practices to insure both maximum forest productivity and environmental protection of the lands to be treated under the management plan.

- (2) "Approved practices" mean those silvicultural practices approved by the Commissioner for the purpose of commercially growing timber through the establishment of forest stands, of insuring the proper regeneration of forest stands to commercial production levels following the harvest of mature timber, or of insuring maximum growth potential of forest stands to commercial production levels. Such practices shall include those required to accomplish site preparation, natural and artificial forestation, noncommercial removal of residual stands for silvicultural purposes, cultivation of established young growth of desirable trees for silvicultural purposes, and improvement of immature forest stands for silvicultural purposes. In each case, approved practices will be determined by the needs of the individual forest stand. These practices shall include existing practices and such practices as are developed in the future to insure both maximum forest productivity and environmental protection.
- (3) "Commissioner" means the Commissioner of Agriculture.
- (4) "Department" means the Department of Agriculture and Consumer Services.
- (5) "Eligible land" means land owned by an eligible landowner.
- (6) "Eligible landowner" means a private individual, group, association or corporation owning land suitable for forestry purposes. Where forest land is owned jointly by more than one individual, group, association or corporation, as tenants in common, tenants by the entirety, or otherwise, the joint owners shall be considered, for the purpose of this Article, as one eligible landowner and entitled to receive cost-sharing payments as provided herein only once during each fiscal year.
- (7) "Forest development assessment" means an assessment on primary forest products from timber severed in North Carolina for the funding of the provisions of this Article, as authorized by the General Assembly.
- (8) "Forest development cost-sharing payment" means financial assistance to partially cover the costs of implementing approved practices in such amounts as the Commissioner shall determine, subject to the limitations of this Article.
- (9) "Forest development fund" means the Forest Development Fund created by G.S. 106-1018.
- (10) "Maintain" means to retain the reforested area as forestland for a 10-year period and to comply with the provisions in the approved forest management plan. (1977, c. 562, s. 3; c. 771, s. 4; 1989, c. 727, s. 218(74); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1997-352, s. 1; 1997-443, s. 11A.119(a); 2005-126, s. 2; 2011-145, s. 13.25(gg), (hh); 2018-113, s. 5(e).)

**§ 106-1013. Powers and duties.**

- (a) The Commissioner shall have the powers and duties to administer the provisions of this Article.
- (b) The Department shall serve as the disbursing agency for funds to be expended from and deposited to the credit of the Forest Development Fund.
- (c) Subject to the limitations set forth in G.S. 106-1018(d), the Commissioner is authorized to employ administrative, clerical and field personnel to support the program created by this Article

and to compensate such employees from the Forest Development Fund for services rendered in direct support of the program.

(d) The Commissioner is authorized to purchase equipment for the implementation of this program from the Forest Development Fund subject to the limitations of G.S. 106-1018(e). All equipment purchased with these funds will be assigned to and used only for the forest development program, except for emergency use in forest fire suppression and other activities relating to the protection of life or property. The Forest Development Fund will be reimbursed from other program funds for equipment costs incurred during such emergency use. (1977, c. 562, s. 4; 2011-145, s. 13.25(gg), (hh).)

#### **§ 106-1014. Administration of cost sharing.**

The Commissioner shall have authority to administer the cost sharing provisions of this Article, including but not limited to the following:

- (1) Prescribe the manner and requirements of making application for cost sharing funds.
- (2) Identify those approved forestry practices as defined in G.S. 106-1012(2) which shall be approved for cost sharing under the provisions of this Article.
- (3) Review periodically the cost of forest development practices and establish allowable ranges for cost sharing purposes for approved practices under varying conditions throughout the State.
- (4) Determine, prior to approving forest development cost sharing payments to any landowner, that all proposed practices are appropriate and are comparable in cost to the prevailing cost of those practices in the general area in which the land is located. Should the Commissioner determine that the submitted cost of any practice is excessive, he shall approve forest development cost sharing payments based upon an allowable cost established under G.S. 106-1014(3).
- (5) Determine, prior to approving forest development cost sharing payments, that an approved forest management plan as defined in G.S. 106-1012(1) for the eligible land has been filed with the Commissioner and that the landowner has indicated in writing his intent to comply with the terms of such management plan.
- (6) Determine, prior to approving forest development cost sharing payments, that the approved practices for which payment is requested have been completed in a satisfactory manner, conform to the approved forest management plan submitted under G.S. 106-1014(5), and otherwise meet the requirements of this Article.
- (7) Disburse from the Forest Development Fund to eligible landowners cost sharing payments for satisfactory completion of practices provided for by this Article and the Commissioner shall, insofar as is practicable, disburse the funds from the State's appropriation on a matching basis with the funds generated by the Primary Forest Product Assessment. (1977, c. 562, s. 5; 2011-145, s. 13.25(gg), (hh).)

#### **§ 106-1015. Cost-share agreements.**

(a) In order to receive forest development cost-share payments, an eligible landowner shall enter into a written agreement with the Department describing the eligible land, setting forth the

approved practices implemented for the area and covered by the approved forest management plan, and agreeing to maintain those practices for a 10-year period.

(b) In the absence of Vis major or Act of God or other factors beyond the landowner's control, a landowner who fails to maintain the practice or practices for a 10-year period in accordance with the agreement set forth in subsection (a) of this section shall repay to the Fund all cost-sharing funds received for that area.

(c) If the landowner voluntarily relinquishes control or title to the land on which the approved practices have been established, the landowner shall:

- (1) Obtain a written statement, or a form approved by the Department, from the new owner or transferee in which the new owner or transferee agrees to maintain the approved practices for the remainder of the 10-year period; or
- (2) Repay to the Fund all cost-sharing funds received for implementing the approved practices on the land.

If a written statement is obtained from the new owner or transferee, the original landowner will no longer be responsible for maintaining the approved practices or repaying the cost-sharing funds. The responsibility for maintaining those practices for the remainder of the 10 years shall devolve to the new owner or transferee. (1997-352, s. 2; 2011-145, s. 13.25(gg).)

#### **§ 106-1016. Limitation of payments.**

(a) An eligible landowner may receive forest development cost sharing payments for satisfactory completion of approved practices as determined by the Commissioner, except that the Commissioner shall approve no assistance in an amount exceeding the lesser of (i) a sum equal to sixty percent (60%) of the landowner's actual per acre cost incurred in implementing the approved practice or (ii) a sum equal to sixty percent (60%) of the prevailing per acre cost as determined by the Commissioner under G.S. 106-1014(3) for implementing that approved practice.

(b) The maximum amount of forest development cost sharing funds allowed to any landowner in one fiscal year will be the amount required to complete all approved practices on 100 acres of land at the prevailing cost sharing rate established under G.S. 106-1016(a).

(c) Eligible landowners may not use State cost sharing funds if funds from any federal cost sharing program are used on the same acreage for forestry practices during the same fiscal year. (1977, c. 562, s. 6; 2011-145, s. 13.25(gg), (hh).)

#### **§ 106-1017. Participation by government political subdivisions.**

No governmental agency, federal, State or local, will be eligible for forest development payments under the provision of this Article. (1977, c. 562, s. 7; 2011-145, s. 13.25(gg).)

#### **§ 106-1018. Forest Development Fund.**

(a) The Forest Development Fund is created in the Department as a special fund. Revenue in the Fund does not revert at the end of a fiscal year, and interest and other investment income earned by the Fund accrues to it. The Fund is created to provide revenue to implement this Article. The Fund consists of the following revenue:

- (1) Assessments on primary forest products collected under Article 81 of Chapter 106 of the General Statutes.
  - (2) General Fund appropriations.
  - (3) Gifts and grants made to the Fund.
- (b), (c) Repealed by Session Laws 1997-352, s. 3.

(d) In any fiscal year, no more than five percent (5%) of the available funds generated by the Primary Forest Product Processor Assessment Act may be used for program support under the provisions of G.S. 106-1013(c).

(e) Funds used for the purchase of equipment under the provisions of G.S. 106-1013(d) shall be limited to appropriations from the General Fund to the Forest Development Fund designated specifically for equipment purchase. (1977, c. 562, s. 8; c. 771, s. 4; 1981, c. 1127, s. 45; 1989, c. 727, s. 218(75); 1997-352, s. 3; 1997-443, s. 11A.119(a); 2011-145, s. 13.25(gg), (hh).)

**§ 106-1019:** Reserved for future codification purposes.

**§ 106-1020:** Reserved for future codification purposes.

**§ 106-1021:** Reserved for future codification purposes.

**§ 106-1022:** Reserved for future codification purposes.

**§ 106-1023:** Reserved for future codification purposes.

**§ 106-1024:** Reserved for future codification purposes.